

MERCHANT & GOULD P.C.

United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **A METHOD AND COMPOSITION FOR TREATING PROSTATE CANCER**

The specification of which

- a. ☐ is attached hereto
b. ☒ is entitled **A METHOD AND COMPOSITION FOR TREATING PROSTATE CANCER**, having an attorney docket number 8004.4US01.
c. ☐ was filed on as application serial no. and was amended on (if applicable) (in the case of a PCT-filed application) described and claimed in international no. filed and as amended on (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☒ no such applications have been filed.
b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:


Albrecht, John W.	Reg. No. 40,481	Kowalchyk, Katherine M.	Reg. No. 36,848
Anderson, Gregg I.	Reg. No. 28,828	Lacy, Paul E.	Reg. No. 38,946
Ansems, Gregory M.	Reg. No. 42,264	Larson, James A.	Reg. No. 40,443
Batzli, Brian H.	Reg. No. 32,960	Liepa, Mara E.	Reg. No. 40,066
Beard, John L.	Reg. No. 27,612	Lindquist, Timothy A.	Reg. No. 40,701
Black, Bruce E.	Reg. No. 41,622	McDonald, Daniel W.	Reg. No. 32,044
Bruess, Steven C.	Reg. No. 34,130	Mueller, Douglas P.	Reg. No. 30,300
Byrne, Linda M.	Reg. No. 32,404	Pauly, Daniel M.	Reg. No. 40,123
Carlson, Alan G.	Reg. No. 25,959	Phillips, John B.	Reg. No. 37,206
Caspers, Philip P.	Reg. No. 33,227	Plunkett, Theodore	Reg. No. 37,209
Chiapetta, James R.	Reg. No. 39,634	Pytel, Melissa J.	Reg. No. 41,512
Clifford, John A.	Reg. No. 30,247	Reich, John C.	Reg. No. 37,703
Cochran, William W.	Reg. No. 26,652	Reiland, Earl D.	Reg. No. 25,767
Daignault, Ronald A.	Reg. No. 25,968	Schmaltz, David G.	Reg. No. 39,828
Daley, Dennis R.	Reg. No. 34,994	Schuman, Mark D.	Reg. No. 31,197
Dalglish, Leslie E.	Reg. No. 40,579	Schumann, Michael D.	Reg. No. 30,422
Daulton, Julie R.	Reg. No. 36,414	Scull, Timothy B.	Reg. No. 42,137
DeVries Smith, Katherine M.	Reg. No. 42,157	Sebald, Gregory A.	Reg. No. 33,280
DiPietro, Mark J.	Reg. No. 28,707	Skoog, Mark T.	Reg. No. 40,178
Edell, Robert T.	Reg. No. 20,187	Soderberg, Richard	Reg. No. P-43,352
Epp Ryan, Sandra	Reg. No. 39,667	Storer, Shelley D.	Reg. No. P-45,135
Glance, Robert J.	Reg. No. 40,620	Sumner, John P.	Reg. No. 29,114
Goggin, Matthew J.	Reg. No. 44,125	Sumners, John S.	Reg. No. 24,216
Golla, Charles E.	Reg. No. 26,896	Swenson, Erik G.	Reg. No. P-45,147
Gorman, Alan G.	Reg. No. 38,472	Tellekson, David K.	Reg. No. 32,314
Gould, John D.	Reg. No. 18,223	Trembath, Jon R.	Reg. No. 38,344
Gregson, Richard	Reg. No. 41,804	Underhill, Albert L.	Reg. No. 27,403
Gresens, John J.	Reg. No. 33,112	Vandenburgh, J. Derek	Reg. No. 32,179
Hamre, Curtis B.	Reg. No. 29,165	Welter, Paul A.	Reg. No. 20,890
Hillson, Randall A.	Reg. No. 31,838	Wahl, John R.	Reg. No. 33,044
Holzer, Jr., Richard J.	Reg. No. 42,668	Whipps, Brian	Reg. No. 43,261
Johnston, Scott W.	Reg. No. 39,721	Wickhem, J. Scot	Reg. No. 41,376
Kadievitch, Natalie D.	Reg. No. 34,196	Williams, Douglas J.	Reg. No. 27,054
Kastelic, Joseph M.	Reg. No. 37,160	Witt, Jonelle	Reg. No. 41,980
Kettelberger, Denise	Reg. No. 33,924	Xu, Min S.	Reg. No. 39,536
Keys, Jeramie J.	Reg. No. 42,724	Zeuli, Anthony R.	Reg. No. P-45,255
Knearl, Homer L.	Reg. No. 21,197		
Kowalchyk, Alan W.	Reg. No. 31,535		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant & Gould P.C. to the contrary.

Please direct all correspondence in this case to Merchant & Gould P.C. at the address indicated below:

Merchant & Gould P.C.
3100 Norwest Center
90 South Seventh Street
Minneapolis, MN 55402-4131

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name GOKCEN	First Given Name MUHARREM	Second Given Name
0	Residence & Citizenship	City MINNEAPOLIS	State or Foreign Country MINNESOTA	Country of Citizenship USA
1	Post Office Address	Post Office Address 7400 DULUTH STREET	City MINNEAPOLIS	State & Zip Code/Country MINNESOTA 55427/USA
Signature of Inventor 201:			Date:	
			10.28.99	

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§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)–(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

SMALL BUSINESS

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 C.F.R. 1.9(f) AND 1.27(c)) – SMALL BUSINESS CONCERN**

I hereby declare that I am

- a) ☐ the owner of the small business concern identified below:
b) ☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: Immunolytics Inc.
ADDRESS OF CONCERN: 7400 Duluth Street
Minneapolis, Minnesota 55427

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. 121.801–805, and reproduced in 37 C.F.R. 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled A METHOD AND COMPOSITION FOR TREATING PROSTATE CANCER by inventor(s) Muharrem Gokcen described in

- a) ☒ the specification filed herewith.
b) ☐ provisional application serial no. __, filed __.
c) ☐ non-provisional application serial no. __, filed __.
d) ☐ patent no. __, issued __.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 C.F.R. 1.9(c) or by any concern which would not qualify as a small business concern under 37 C.F.R. 1.9(d) or a nonprofit organization under 37 C.F.R. 1.9(e). *NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. 1.27)

NAME: _____
ADDRESS: _____
a) ☐ INDIVIDUAL b) ☐ SMALL BUSINESS CONCERN c) ☐ NONPROFIT ORGANIZATION
NAME: _____
ADDRESS: _____
a) ☐ INDIVIDUAL b) ☐ SMALL BUSINESS CONCERN c) ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereof, or any patent to which this verified statement is directed.

NAME: Muharrem Gokcen
TITLE: President
ADDRESS: 7400 Duluth Street, Minneapolis, Minnesota 55427

SIGNATURE: _____ Date: 10.28.99

ASSIGNMENT

WHEREAS, I, Muharrem Gokcen, residing at 7400 Duluth Street, Minneapolis, Minnesota 55427, made certain new and useful inventions and improvements for which I filed an application for Letters Patent of the United States on an even date herewith, which is entitled A METHOD AND COMPOSITION FOR TREATING PROSTATE CANCER.

AND WHEREAS, Immunolytics Inc., a corporation organized and existing under and by virtue of the laws of the State of Minnesota, and having an office and place of business at 7400 Duluth Street, Minneapolis, Minnesota 55427 (hereinafter "Assignee") is desirous of acquiring the entire right, title and interest in and to said inventions, improvements and application and in and to the Letters Patent to be obtained therefor;

NOW THEREFORE, to all whom it may concern, be it known that for and in consideration of the sum of One Dollar and other good and valuable considerations, the receipt and sufficiency whereof is hereby acknowledged, I have sold, assigned, and transferred, and by these presents do sell, assign and transfer unto said Assignee, its successors or assigns, the entire right, title and interest for all countries in and to all inventions and improvements disclosed in the aforesaid application, and in and to the application, all divisions, continuations, or renewals thereof, all Letters Patent which may be granted therefrom, and all reissues or extensions of such patents, and in and to any and all applications which have been or shall be filed in any foreign countries for Letters Patent on the inventions and improvements, including an assignment of all rights under the provisions of the International Convention, and all Letters Patent of foreign countries which may be granted therefrom; and I do hereby authorize and request the Commissioner of Patents and Trademarks to issue any and all United States Letters Patent for the aforesaid inventions and improvements to the Assignee as the assignee of the entire right, title and interest in and to the same, for the use of the Assignee, its successors and assigns.

AND, for the consideration aforesaid, I do hereby agree that I and my executors and legal representatives will make, execute and deliver any and all other instruments in writing including any and all further application papers, affidavits, assignments and other documents, and will communicate to said Assignee, its successors and representatives all facts known to me relating to said improvements and the history thereof and will testify in all legal proceedings and generally do all things which may be necessary or desirable more effectually to secure to and vest in said Assignee, its successors or assigns the entire right, title and interest in and to the improvements, inventions, applications, Letters Patent, rights, titles, benefits, privileges and advantages hereby sold, assigned and conveyed, or intended so to be.

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AND, furthermore I covenant and agree with said Assignee, its successors and assigns, that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by me and that full right to convey the same as herein expressed is possessed by me.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 28th day of OCTOBER, 1999.

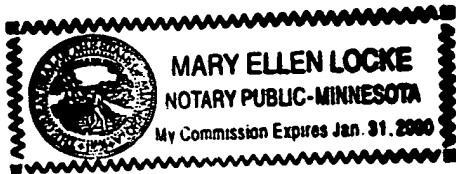
Muharrem Gokcen
Muharrem Gokcen

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss.

On this 28th day of OCTOBER, 1999, before me personally appeared Muharrem Gokcen to me known and known to me to be the person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for the uses and purposes therein set forth.

[SEAL]

Mary Ellen Locke
Notary Public



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